

Notice of Allowability

Application No.

10/715,916

Examiner

Rabon Sergent

Applicant(s)

KLINGENBERG ET AL.

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Request for Continued Examination filed December 19, 2007.
2. ☒ The allowed claim(s) is/are 1-4,6-11,15-17 and 21-32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 12/19/2007
- ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
- ☐ Notice of Informal Patent Application
- ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____.


RABON SERGENT
PRIMARY EXAMINER

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The examiner's amendment previously set forth within the communication of September 25, 2007 remains in effect; accordingly, the allowed claims reflect these amendments. Said examiner's amendment has been set forth again below.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Joseph Rossi on September 18, 2007.

Amend the claims as follows:

Within line 20 of claim 1, line 29 of claim 15, line 25 of claim 16, line 19 of claim 17, line 25 of claim 22, line 20 of claim 23, and lines 19 and 20 of claim 25, between the words, "less" and "about", delete the word, "that", and insert in its place --- than ---.

Within line 2 of claims 9 and 10, delete the language, "polypropylene glycol", and insert in its place, --- poly(propylene oxide) diol ---.

Within line 15 of claim 17, delete the language, "is non-crystalline and".

Within claim 21, change the status identifier to "currently amended".

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The drawings filed November 18, 2003 are accepted by the examiner.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (571) 272-1079.

R. Sergent
December 26, 2007


RABON SERGENT
PRIMARY EXAMINER

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The following is an examiner's statement of reasons for allowance: With the Request for Continued Examination, filed December 19, 2007, applicants filed an Information Disclosure Statement citing JP 11-12339. The examiner has carefully reviewed this prior art document; however, the teachings within JP 11-12339 are not considered to be more pertinent to the issues of patentability than the previously relied upon prior art, specifically Schafheutle et al. (US 2003/0083457 A1). JP 11-12339 contains teachings similar to those of Schafheutle et al. with respect to the selection of the reactant species; therefore, these teachings are no more relevant than those previously relied upon with respect to Schafheutle et al. Furthermore, JP 11-12339 is silent regarding applicants' claimed non-crystallinity and particle size limitations. Lastly, while JP 11-12339 discloses a weight average molecular weight for the polyurethane of 5,000 or greater and specifically exemplifies weight average molecular weights of 25,000, 19,000, and 24,000 for compositions derived from a combination of reactants different from those instantly claimed, JP 11-12339 fails to provide any guidance or motivation to operate at the instantly claimed weight average molecular weight range of 40,000 to 60,000. The instantly claimed molecular weight range is considered to be significantly higher than the disclosed exemplified weight average molecular weights of JP 11-12339, and it is further noted that applicants have previously established within the declaration of July 26, 2007 the criticality of operating within the instantly claimed molecular weight range. Applicants established that weight average molecular weights outside of the claimed range yield low peel strengths. See paragraph 24 of the declaration. The criticality of the instantly claimed range could not have been predicted from the teachings of JP 11-12339. Accordingly, the instant claims are allowable over JP 11-12339.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (571) 272-1079.

R. Sergent
December 26, 2007


RABON SERGENT
PRIMARY EXAMINER